

**Exhibit 4**

**In The Matter Of:**

*DIRECTV, LLC v.*

*Spina, et al.*

---

*Craig Spencer*

*September 25, 2015*

*DIRECTV, LLC v. Spina, et al.*

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1           A P P E A R A N C E S	
2           ON BEHALF OF THE PLAINTIFF:	1           (The witness is sworn by the court
3           Christopher Hufnagel, Esq. (Via phone)	2           reporter at 2:10 p.m., at which time the
4           LONSTEIN LAW OFFICE, P.C.	3           following proceedings are had:)
5           P.O. Box 351	4           CRAIG SPENCER,
6           80 North Main Street	5           having been first duly sworn to tell the
7           Ellenville, NY 12428	6           truth, the whole truth, and nothing but the
8           chufnagel@signallaw.com	7           truth relating to said matter, is examined
9	8           and testifies as follows:
10	9           DIRECT EXAMINATION,
11	10 <b>QUESTIONS BY MR. OVERHAUSER:</b>
12	11          Q. Mr. Spencer, my name is Paul Overhauser. Can
13	12          you please state your name and address for
14	13          the record, please?
15	14          A. It's Craig Spencer, 833 Old Greenville
16	15          Highway, Apartment 112, Clemson, South
17	16          Carolina 29631.
18	17          Q. And we're here at this date and time because
19	18          it was the date that you suggested because I
20	19          understand your son is getting married in
21	20          Ft. Wayne?
22	21          A. That is correct.
23	22          Q. Okay. So you happened to be in town for
24	23          that?
25	24          A. Yeah.
	25          Q. But you're here voluntarily, right?

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<p>1 A. Yes, sir.</p> <p>2 Q. Mr. Spencer, do you own a business?</p> <p>3 A. Yes, I do.</p> <p>4 Q. What is that?</p> <p>5 A. It's Superior Antenna Systems, also known as</p> <p>6 SAS Digital.</p> <p>7 Q. And what business is SAS Digital in?</p> <p>8 A. We do a lot of different things. DIRECTV</p> <p>9 happens to be one of them. We also install</p> <p>10 video surveillance cameras, TVs, all types of</p> <p>11 home entertainment stuff.</p> <p>12 Q. Are you the sole owner?</p> <p>13 A. I am.</p> <p>14 Q. When did this business begin?</p> <p>15 A. 1994.</p> <p>16 Q. Have you been a DIRECTV reseller continuously</p> <p>17 since then?</p> <p>18 A. Yes, I have.</p> <p>19 Q. Has anyone else ever been involved with you</p> <p>20 with this business?</p> <p>21 A. I did have a partner at one time, but that</p> <p>22 was dissolved in 2005.</p> <p>23 Q. Who was that partner?</p> <p>24 A. His name was Randy Maxwell.</p> <p>25 (Whereupon, Exhibit No. 1 was</p>	<p>1 A. That is a -- that is money that's paid</p> <p>2 monthly on certain accounts. It's changed a</p> <p>3 lot over the last 10, 15 years. But</p> <p>4 basically it's accumulated customers, and</p> <p>5 you're paid a fee of -- just depending on how</p> <p>6 many installs you do or how far back they go</p> <p>7 as far as like back when PrimeStar was part</p> <p>8 of -- or PrimeStar got bought by DIRECTV,</p> <p>9 there was some residuals that I get paid a</p> <p>10 certain amount for. And then there's</p> <p>11 customers that I installed, that type of</p> <p>12 thing. But it's just like a monthly bonus, I</p> <p>13 guess I would say.</p> <p>14 Q. Okay. Do you presently receive residuals</p> <p>15 from DIRECTV for subscriptions that you or</p> <p>16 the corporation installed?</p> <p>17 A. I do.</p> <p>18 Q. Okay. I'll tell you what, this afternoon</p> <p>19 I'll use the term SAS to refer to your</p> <p>20 business whenever it was done by the</p> <p>21 corporation or by you individually.</p> <p>22 A. That's fine, yes.</p> <p>23 Q. So is SAS an authorized retailer for DIRECTV</p> <p>24 today?</p> <p>25 A. Yes.</p>
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<p>1 marked for identification.)</p> <p>2 BY MR. OVERHAUSER:</p> <p>3 Q. Okay. Let me show you what's been marked as</p> <p>4 Exhibit 1. This is a printout from the</p> <p>5 Indiana Secretary of State. It seems to say</p> <p>6 that the company -- was this Maxwell</p> <p>7 Enterprises, Inc.? Was that the company?</p> <p>8 A. Yes.</p> <p>9 Q. It says it was dissolved and became inactive</p> <p>10 on July 15th of 2010. Is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did the business continue following</p> <p>13 the dissolution of the corporation?</p> <p>14 A. Yes.</p> <p>15 Q. So you continued running SAS Digital in your</p> <p>16 own name as a proprietorship?</p> <p>17 A. That is correct.</p> <p>18 Q. After the dissolution, was there any change</p> <p>19 in the day-to-day operation of the business?</p> <p>20 A. No.</p> <p>21 Q. Well, after the dissolution, was there any</p> <p>22 change in how you interacted with DIRECTV or</p> <p>23 SAS's customers on a day-to-day basis?</p> <p>24 A. No, there was not.</p> <p>25 Q. Okay. What are residuals?</p>	<p>1 Q. And it's been authorized since what, 1994,</p> <p>2 1995?</p> <p>3 A. Somewhere in that area, yeah.</p> <p>4 Q. Okay. And has SAS continuously been</p> <p>5 authorized since then to install DIRECTV</p> <p>6 equipment and sign up DIRECTV residential and</p> <p>7 commercial subscribers?</p> <p>8 A. Yes.</p> <p>9 Q. And does DIRECTV itself activate DIRECTV</p> <p>10 receivers?</p> <p>11 A. They're the ones that we contact to call to</p> <p>12 activate equipment. That is correct, yes.</p> <p>13 Q. Okay. And has DIRECTV told you that persons</p> <p>14 that watch DIRECTV using an activated DIRECTV</p> <p>15 receiver are authorized to view the DIRECTV</p> <p>16 programming?</p> <p>17 A. Yeah. Yes.</p> <p>18 Q. Does SAS have a DIRECTV dealer number?</p> <p>19 A. Yes, it does.</p> <p>20 Q. And what is that?</p> <p>21 A. 1311782.</p> <p>22 Q. Is that the same dealer number you've had</p> <p>23 since --</p> <p>24 A. Since day one, yep.</p> <p>25 Q. And do you personally perform some of the</p>

1 installations? 2 A. I have, yes. 3 Q. Okay. And do you also use independent 4 subcontractors to install some systems? 5 A. For the majority of them, yes. They were 6 conducted by -- the installations are done by 7 contractors, that is correct. 8 Q. What happens when one of SAS's independent 9 contractors installs a system for SAS? 10 A. Basically, they're given my dealer number so 11 they can complete the activation of the 12 system. 13 Q. So they contact DIRECTV to -- 14 A. At the end of the installation they would 15 call them and activate the receivers, that is 16 correct. 17 Q. Okay. And by activating a receiver, does 18 DIRECTV authorize the -- its programming to 19 be displayed on that receiver? 20 MR. HUFNAGEL: I'm going to object 21 to that question. You're calling for a legal 22 conclusion with authorization. 23 BY MR. OVERHAUSER: 24 Q. You can go ahead and answer. 25 A. Well, I'm sorry --	Page 9  1 Q. Now, did the Spinas run a Damon's restaurant 2 in Martinsville in the 2000s? 3 A. Yes, they did. 4 Q. And what happened to it? 5 A. I believe it went out of business. 6 Q. Okay. Are you aware of any requests by the 7 Spinas to have a DIRECTV system installed? 8 A. At the business? 9 Q. Yes. 10 A. No. 11 Q. Are you aware that the Spinas wanted to get 12 DIRECTV in their business? 13 A. That had been discussed, right. 14 MR. HUFNAGEL: Paul, can you 15 clarify what you're talking about when you 16 say "business"? 17 MR. OVERHAUSER: Oh, I'm sorry. 18 That's a good point. 19 BY MR. OVERHAUSER: 20 Q. Did the Spinas -- are you aware that the 21 Spinas wanted to get DIRECTV in their 22 restaurant in Martinsville? 23 A. Like I said, I was -- yes. 24 Q. Okay. 25 A. I would say that we had talked about it. But
<p>1 Q. I'll restate the question. So when DIRECTV 2 activates a receiver, does that mean that 3 people can watch the DIRECTV programming 4 using that receiver?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Now, do you know Bill and Victor 7 Spina?</p> <p>8 A. Yep. Known them for 30 years.</p> <p>9 Q. Really?</p> <p>10 A. Yeah.</p> <p>11 Q. Are you familiar with their business 12 operations?</p> <p>13 A. Somewhat, yeah.</p> <p>14 Q. And how long -- so you've known them for how 15 long?</p> <p>16 MR. HUFNAGEL: Objection --</p> <p>17 A. I'd say it's over 30 years. I'm sorry.</p> <p>18 MR. HUFNAGEL: I want to state an 19 objection on the record. That was asked and 20 answered already.</p> <p>21 MR. OVERHAUSER: Okay.</p> <p>22 BY MR. OVERHAUSER:</p> <p>23 Q. So they knew you ran SAS and that it was a 24 DIRECTV retailer?</p> <p>25 A. Yeah, sure.</p>	<p>Page 10  1 as far as I knew, it had never been pursued, 2 so... 3 Q. Okay. And was the address of that the 610 4 Birk Road in Martinsville? 5 A. I believe that's the address, yes. 6 Q. Okay. Are you familiar with that location? 7 Have you seen what -- I guess, what is there 8 now? Is that a Texas Corral? 9 A. Texas Corral, I believe it is, yes. 10 Q. Okay. And so the Spinas asked about getting 11 an installation of DIRECTV with multiple 12 televisions for the Martinsville restaurant? 13 A. We had talked about it at one time, yes. 14 Q. And when you talked about it, was that 15 restaurant still called Damon's? 16 A. I don't believe so. I think they were in the 17 process -- I think they still had the 18 building and they were in the process of 19 changing it over to a different restaurant, 20 which I guess is now called the Texas Corral. 21 Q. Well, did any of SAS's contractors go out to 22 install DIRECTV there? 23 A. Apparently so. 24 Q. Okay. Now, did SAS supply the equipment, the 25 DIRECTV equipment, for that installation?</p>

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<p>1 A. I would say so, since we're having this 2 conversation. 3 Q. Okay. So did SAS supply the antenna and all 4 of the receivers? 5 A. I would say that we did, yeah. 6 Q. Okay. And did SAS deliver all of that 7 equipment to the restaurant? 8 A. Well, SAS didn't, but my contractor 9 apparently did. 10 Q. Okay. So after the installation was 11 completed, what did the contractor do? 12 A. Basically he brought me back a work order 13 stating that he installed DIRECTV at the 14 Spinas' residence. 15 Q. Okay. 16 A. So at that point I found no problem with it. 17 Q. Okay. So did the subcontractor do anything 18 to activate the system? 19 A. Did he do anything? He had to make a phone 20 call to DIRECTV to activate it. 21 Q. So DIRECTV did the activation after a -- upon 22 a phone call from the contractor? 23 A. Right. 24 Q. Okay. So after DIRECTV activates a receiver, 25 does that make it ready to receive --</p>	<p>1 marked for identification.) 2 BY MR. OVERHAUSER: 3 Q. Let me show you what's been marked as Exhibit 4 Number 2. Is this an invoice from SAS to 5 Texas Corral for work relating to this 6 installation? 7 A. Well, as you see on this, it shows LCD TVs 8 and mounts. 9 Q. Okay. So those would be the TVs on which 10 the -- 11 A. Which I do do that kind of stuff, and I 12 actually did that installation of that stuff 13 right there, the TVs and stuff. 14 Q. Okay. And this is dated what, June 7, 2009, 15 is that correct? 16 A. That is correct. 17 Q. And it says on here, "sales rep, Craig." Is 18 that you? 19 A. That'd be me. 20 Q. Okay. So maybe I already asked you this. If 21 I did, I'm sorry. But once the installation 22 is complete, when DIRECTV activates the 23 account, that's what authorizes the TV 24 programming on it? 25 A. Yes.</p>

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<p>1 A. Yes. 2 Q. -- DIRECTV programming? 3 A. Yes, it does. 4 Q. Okay. Now, do the receivers -- do the 5 DIRECTV receivers, do they like receive and 6 decrypt the DIRECTV programming? 7 A. Right. There's a RID number and an access 8 card number that have to be matched up and 9 married up within the DIRECTV's computer 10 system from my knowledge, you know, for it to 11 receive the programming. So yeah, I guess... 12 Q. Okay. 13 A. Yes. 14 Q. Okay. Well, you mentioned that SAS delivered 15 all the equipment out to the restaurant for 16 this. 17 A. Uh-huh. 18 Q. But at the time it was, you know, delivered 19 out there for the installation, was it 20 actually open for restaurant business? 21 A. Not to my knowledge it wasn't, no. 22 Q. Okay. But it later opened as a restaurant? 23 A. I believe so, yeah. And I think it's still 24 there. 25 (Whereupon, Exhibit No. 2 was</p>	<p>1 Q. Okay. Now, did you ever give Bill Spina or 2 Victor Spina or anyone else any reason to 3 believe that the receipt or display of 4 DIRECTV programming on the receivers at the 5 Martinsville Texas Corral was not authorized? 6 A. No, because basically I wasn't aware that 7 they had DIRECTV programming at the 8 restaurant. So I believe what happened was 9 that the contractor told them that there was 10 no problem with it. My guy, the Mark Lavance 11 guy that did the installation and the sale 12 part of it on his own, is the one that 13 basically told them to -- 14 Q. To get it going? 15 A. Yeah. 16 Q. Have you ever been in the Texas Corral 17 Restaurant in Martinsville? 18 A. Yeah, I have. Uh-huh. 19 Q. So you've been there since it's opened. Have 20 you observed -- have you noticed there's 21 DIRECTV -- 22 A. Actually, I haven't been there since it's 23 opened. 24 Q. Oh, you haven't? 25 A. No. I mean, the work that I did here, like</p>

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<p>1 installing TVs and stuff, that was all done      2 before that place ever opened. So as far as      3 have I been in there since it opened, no, I      4 have not.      5 Q. Okay. Now, did the Spinas ever ask about      6 installing any other DIRECTV equipment beyond      7 Martinsville?      8 A. I believe they had asked me about Shelbyville      9 at one point, and they've kind of went away      10 from that. And I think that's where Mark got      11 ahold of them again and told them he would      12 just add those receivers to their residential      13 account, which apparently they didn't have.      14 Q. Okay. And when you say Mark, you're talking      15 about --      16 A. The subcontractor that did the job.      17 Q. Okay.      18 A. Right.      19 Q. And his name is Mark Lavance?      20 A. Yes.      21 Q. And was the Shelbyville address for the other      22 location, was that the 2103 Intelliplex      23 Drive?      24 A. Yeah, if you say it is. I really don't know      25 exactly what the address is on that.</p>	<p>1 assume that it was since it was activated.      2 Q. Okay. And again, you've been out at that      3 building before to do some work?      4 A. Yes, I have been to the one in Shelbyville.      5 I just didn't remember the address of it. I      6 couldn't tell you what it was.      7 Q. Okay. Well, when you were out there doing      8 the work, was the restaurant opened or was      9 it --      10 A. No.      11 Q. -- before it opened?      12 A. It was before it opened.      13 Q. Okay.      14 MR. HUFNAGEL: I'm going object to      15 that, Paul. You've already asked that and      16 it's already been answered.      17 MR. OVERHAUSER: Okay.      18 (Whereupon, Exhibit No. 3 was      19 marked for identification.)      20 BY MR. OVERHAUSER:      21 Q. All right. Let me show you Exhibit 3.      22 A. Uh-huh.      23 Q. Is this an invoice for work done at the      24 Shelbyville location?      25 A. It is.</p>
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<p>1 Q. Okay. So when the Spinas had a discussion      2 about the Shelbyville restaurant, was it      3 before or after it had opened?      4 A. Before.      5 Q. Okay.      6 A. Because actually, I did, me personally, did      7 some video surveillance work out there on      8 that restaurant as well. I installed a video      9 surveillance system for them at that      10 restaurant.      11 Q. Okay. And did SAS provide DIRECTV equipment      12 for the Shelbyville installation?      13 A. Again, I'm going to have to say yes, because      14 that's why we're here, again, because      15 apparently equipment that I purchased through      16 my dealer number was activated at that      17 restaurant.      18 Q. Okay. And so the contractor completed that      19 installation, and did they also provide the      20 subscription information to DIRECTV for the      21 DIRECTV receivers that had been installed in      22 Shelbyville?      23 A. I mean, I'm going to have to say yes, on      24 that. I mean, I personally can't say what      25 was said by the installer. But I'm going to</p>	<p>1 Q. Okay. And is this your handwriting on      2 Exhibit 3?      3 A. Yep, I believe it is.      4 Q. And how much did SAS charge for this work?      5 A. Looks like it's \$598.13.      6 (Whereupon, Exhibit No. 4 was      7 marked for identification.)      8 BY MR. OVERHAUSER:      9 Q. And let me show you Exhibit 4. This appears      10 to be a canceled check payable to Craig      11 Spencer for \$598.13, dated November of 2011.      12 Would you agree with that?      13 A. Yep, I sure would.      14 Q. And is that your signature on the endorsement      15 area on the back of the check?      16 A. It is, and my driver's license number as      17 well.      18 Q. Okay. And is this the payment for the      19 invoice shown in Exhibit 3?      20 A. Yep, sure looks like it.      21 Q. Okay. So following the installation at the      22 Shelbyville restaurant, was the receipt of TV      23 programming through the receivers there      24 authorized by DIRECTV?      25 MR. HUFNAGEL: I'm going to object</p>

ageID #: 604  
Craig Spencer  
September 25, 2015

<p>1 to that, Paul. You're calling again for a 2 legal conclusion.</p> <p><b>3 BY MR. OVERHAUSER:</b></p> <p>4 Q. Did you ever give Bill or Victor Spina any 5 reason to believe that they were not 6 authorized to receive or display DIRECTV 7 programming?</p> <p>8 A. No. Me personally, I did not, no.</p> <p>9 Q. So just so I'm clear, all of the DIRECTV 10 receivers in Martinsville and Shelbyville 11 were supplied by SAS?</p> <p>12 A. Uh-huh. They were bought -- purchased by me 13 through DSI and activated under my dealer 14 number. So there's no denying that, no.</p> <p>15 Q. So who is DSI?</p> <p>16 A. DSI is one of DIRECTV's equipment 17 distributors.</p> <p>18 Q. Okay.</p> <p>19 A. They have different distributors throughout 20 the country that provide the equipment to, 21 say, people like myself that have businesses. 22 And then that's who -- it all goes through 23 the distributor and then it goes to me and 24 then it gets activated by, you know, myself 25 or a contractor or whatever.</p>	<p>Page 21</p> <p>1 A. They told me the Spinas were filing a lawsuit 2 against Superior Antenna Systems or SAS 3 Digital or Craig Spencer or whoever you want 4 to say, and, you know, against me and 5 DIRECTV.</p> <p>6 Q. So DIRECTV told you that the Spinas were 7 suing you?</p> <p>8 A. Yes, they did.</p> <p>9 Q. What did he want?</p> <p>10 A. He wanted to -- basically, about the same 11 questions that you're asking me right now. 12 And if I had any knowledge of them installing 13 those receivers in that restaurant. And I 14 told him no, I did not know that, that 15 they -- at that time, you know, the whole 16 family, uncles, aunts, relatives, everybody 17 had had DIRECTV through my company. And I 18 just assumed that they were talking about, 19 you know, residential stuff.</p> <p>20 And then they told me that they had 21 installed them in these restaurants and did I 22 have any knowledge about it. And I said, no, 23 I don't.</p> <p>24 Q. Okay. Well, did Mr. Cruz ask you to talk to 25 any attorneys for DIRECTV?</p>
<p>1 Q. Okay. Now, in this lawsuit, DIRECTV's 2 complaints say that Victor Spina had DIRECTV 3 receivers in his residence and that he moved 4 them over to the restaurants. Do you have 5 any knowledge of that happening?</p> <p>6 A. No. I have no way of knowing that, no.</p> <p>7 Q. Okay. Have you ever been contacted by 8 DIRECTV about this lawsuit?</p> <p>9 A. Yes, I have.</p> <p>10 Q. How were you first contacted?</p> <p>11 A. By a gentleman by the name of Jose Cruz in, I 12 believe, California.</p> <p>13 Q. And do you remember when that was?</p> <p>14 A. Oh, gosh. I think it was back in April.</p> <p>15 Q. April of 2015?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Did you talk to him on the phone?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And what did he say?</p> <p>20 A. He had called to ask me about the Spinas, and 21 knowledge of them, and that they were in the 22 process of filing a lawsuit against me, my 23 company personally.</p> <p>24 Q. So, I'm sorry, who was filing a lawsuit 25 against you?</p>	<p>Page 22</p> <p>1 A. I believe I talked to Chris and Julie 2 Lonstein.</p> <p>3 Q. Okay. Was that in a conference call or 4 something?</p> <p>5 A. Yes, it was. Between them and DIRECTV and 6 myself.</p> <p>7 Q. And was the DIRECTV person, Mr. Cruz?</p> <p>8 A. As well as I think there was one or two other 9 people from DIRECTV. I'm not sure. But, 10 yes.</p> <p>11 Q. You don't remember their names?</p> <p>12 A. No, I do not.</p> <p>13 Q. Well, you said that -- who was it that had 14 told you that you had been sued by Bill or 15 Victor Spina?</p> <p>16 <b>MR. HUFNAGEL:</b> Asked and answered.</p> <p>17 Let's move on, Paul.</p> <p><b>18 BY MR. OVERHAUSER:</b></p> <p>19 Q. Was it anyone besides Mr. Cruz?</p> <p>20 A. I believe it was the gentleman that we're 21 talking to on the phone and Julie Lonstein 22 and the people at DIRECTV.</p> <p>23 Q. And the person we're talking to on the phone 24 is -- you mean, Chris Hufnagel?</p> <p>25 A. Yes.</p>

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<p>1 Q. So DIRECTV, Julie Lonstein, and Chris 2 Hufnagel all told you that you had been sued 3 by Bill and Victor Spina?</p> <p>4 A. Yes.</p> <p>5 Q. Were you surprised to hear that?</p> <p>6 A. Yes, I was.</p> <p>7 Q. Did you later find out -- I mean, have you 8 found --</p> <p>9 A. Yes, I'd actually called Bill and asked him 10 what's going on. He's like well, DIRECTV 11 shut all our stuff off and they're filing a 12 lawsuit against me. And I was like, well, 13 they're telling me that you're suing me too. 14 And he goes no, we're not suing you for 15 anything.</p> <p>16 Q. Okay. So did you explain to them how the 17 installations occurred in the two restaurants 18 the same way you have told me?</p> <p>19 A. To the best of my knowledge. You know, it's 20 all speculation, but yeah, I did explain to 21 them what I thought had happened.</p> <p>22 Q. And what was DIRECTV's response during that 23 phone call?</p> <p>24 A. Well, they -- they kind of just asked me the 25 questions. And then once we were all done,</p>	<p>1 them I thought if he thought he was doing 2 something wrong, he wouldn't have done it.</p> <p>3 Q. What happened after you told the people on 4 the call this?</p> <p>5 A. Basically, it got kind of quiet, and Julie 6 Lonstein asked if anybody else had any more 7 questions they wanted to ask me, and nobody 8 did. And I kind of sat there for a minute, 9 and they said okay, thank you.</p> <p>10 Q. Did they --</p> <p>11 A. And later on I was contacted by, I believe, 12 Chris to sign an affidavit.</p> <p>13 Q. Well, during that initial call did they ask 14 you any information about the people or 15 contractors that actually did the 16 installations?</p> <p>17 A. Let me think. I don't remember. I want to 18 say they may have. But when I told them 19 about using the subcontractors, that's when 20 it all kind of got quiet, you know, when I 21 said I have subcontractors that did most of 22 work for me.</p> <p>23 Q. So during this call you told them about the 24 use of contractors --</p> <p>25 A. Uh-huh.</p>
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<p>1 they asked each other via the phone if 2 anybody else had any more questions for me. 3 And they said no, and that's basically where 4 it went. We hung up and I thought it was 5 over.</p> <p>6 Q. Okay. Did they ask you whether any receivers 7 had been moved from a residence to the 8 restaurant?</p> <p>9 A. Yeah, but I would have no knowledge of that 10 if that were the case. So I was -- you know, 11 no.</p> <p>12 Q. So you didn't tell them that the Spinas had 13 taken receivers from their houses to the 14 restaurant?</p> <p>15 A. No, I did not tell them that.</p> <p>16 Q. Okay.</p> <p>17 A. No.</p> <p>18 Q. Did you tell DIRECTV that the Spinas had no 19 reason to believe that they were not 20 authorized to use DIRECTV programming at the 21 restaurants?</p> <p>22 A. Well, I assumed, or they wouldn't have done 23 it. Because like I said, I've known Bill 24 since high school, and I've always known him 25 to be a straight-up honest man. So I told</p>	<p>1 Q. -- or subcontractors?</p> <p>2 A. I did.</p> <p>3 Q. And what was the reaction of the people on 4 the phone to that?</p> <p>5 A. I think that's when Julie kind of -- I can't 6 remember. Gosh, you're asking me something 7 that happened six months ago almost. I think 8 Julie kind of was happy about it, but I'm not 9 really sure. You know, it's hard to read 10 people over the phone, so...</p> <p>11 Q. But she sounded more enthusiastic or 12 something like that?</p> <p>13 A. Yeah, yeah.</p> <p>14 Q. So was there anything else that was said 15 during the phone call?</p> <p>16 A. No. I think that was pretty much it. I 17 thought -- like I said, I thought that it was 18 done and everybody was happy with the 19 resolution that we had. But I guess they 20 continued to pursue the Spinas for illegally 21 hooking stuff up, supposedly. So I don't 22 know. I'm not really sure. But I did get a 23 call --</p> <p>24 MR. HUFNAGEL: Object -- 25 THE WITNESS: I'm sorry.</p>

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<p>1           <b>MR. HUFNAGEL:</b> No, you can finish.      2     I'm going to put an objection on the record.      3     Sorry.      4     <b>BY MR. OVERHAUSER:</b>      5     Q. Well, did you get anything from DIRECTV after      6     that phone call?      7     A. I did get an affidavit from Chris, asking me      8     to sign it, which I did, and returned it to      9     him.      10    Q. Let me show you --      11     <b>MR. HUFNAGEL:</b> Paul, before you      12     move on, I want to object to that whole line      13     of questioning as calling for hearsay. You      14     can continue.      15       (Whereupon, Exhibit No. 5 was      16     marked for identification.)      17     <b>BY MR. OVERHAUSER:</b>      18    Q. Okay. Let me show you what's been marked as      19     Exhibit 5. Is this the -- this appears to be      20     an e-mail dated April 29, 2015, from Chris      21     Hufnagel to you. Is that right?      22    A. Yep.      23    Q. And it says that attached is an affidavit.      24    Is that correct?      25    A. Yes.</p>	<p>1     <b>I did the next day.</b>      2     Q. Okay. So you said something about best      3     interest or something? What was that?      4     A. I'm not really sure. Basically the fact that      5     they were stating that, you know, that --      6     basically, again, the thing about the Spinas      7     pursuing a lawsuit against me personally, or      8     my company, and that it was best for me to,      9     you know, get that signed and get it back to      10    DIRECTV.      11    Q. Because they said if you signed it, then the      12     lawsuit against you would go away or      13     something?      14     <b>MR. HUFNAGEL:</b> I'm going to      15     object. That's calling for a hypothetical.      16     That's not what he stated.      17     A. It's kind of what I felt like, yeah, but      18     anyway...      19    Q. Well, have you since learned that, in fact,      20     the Spinas have not sued you?      21     A. Yes, I have.      22    Q. Okay. Now, did you ever have a -- did you      23     ever talk to Chris Hufnagel about this      24     affidavit?      25     A. I believe I did one time, maybe. Maybe twice</p>
Page 30	Page 32
<p>1     Q. Okay. And did you sign that affidavit right      2     away after you got the e-mail?      3     A. No, I waited quite a while before I returned      4     it.      5     Q. Now, why was that?      6     A. It seemed to have some inaccuracies to it      7     from what I originally stated to them. I      8     decided to go ahead -- I received a phone      9     call from somebody at DIRECTV -- which      10    actually made me turn it in to them rather      11    quickly -- again, stating the fact that the      12    Spinas were suing me and it would be in my      13    best interest to sign the affidavit and get      14    it back to Chris.      15    Q. Okay. So you got a phone call -- was that      16    the Jose Cruz person again that called you or      17    do you remember?      18    A. Actually, it was somebody different. It was      19    somebody that -- somebody that had to do with      20    vice president of operations or something.      21    I'm not really sure who it was. But he      22    sounded important enough that I called Jose      23    and said, hey, can you tell the guy that just      24    called me that I'll be signing that affidavit      25    and getting it back to Chris tomorrow, which</p>	<p>1     at the most.      2     Q. Once or twice?      3     A. Yeah.      4       (Whereupon, Exhibit No. 6 was      5     marked for identification.)      6     <b>BY MR. OVERHAUSER:</b>      7     Q. Let me show you Exhibit 6, which is -- I      8     think this is the affidavit.      9     A. Is that the one from DIRECTV?      10    Q. Can you take a look at that and tell me is      11     that the affidavit that you -- that DIRECTV      12     sent to you?      13     A. Yes, it is.      14    Q. Okay. You mentioned before that there were      15     some things about this that may have been      16     misleading. I'd like to just go through that      17     and ask you about some of them. Let me start      18     with Paragraph 3. So Paragraph 3 -- I'll      19     just read it out loud. It says: "In 2009,      20     neither I nor SAS Digital, nor any SAS      21     Digital employee was authorized by DIRECTV,      22     LLC to solicit commercial subscriptions and      23     install satellite equipment for commercial      24     programming services."      25     A. That is correct. I believe we lost our</p>

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<p>1 commercial dealer number sometime back in      2 mid-2000s. So no, we were strictly      3 residential.</p> <p>4 Q. Well, at the time, in 2009, the corporation      5 was still around, right?</p> <p>6 A. Yes.</p> <p>7 Q. So you were doing the business through      8 Maxwell Spencer Enterprises, Inc., correct?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. So it was Maxwell Spencer Enterprises,      11 Inc. that had the dealership with DIRECTV,      12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. So it was that corporation that was      15 authorized by DIRECTV to solicit commercial      16 and residential subscriptions, but not you      17 personally?</p> <p>18 A. Well, I would say so, yeah. I mean...</p> <p>19 Q. Okay. Let me ask you about Paragraph 5. Let      20 me just read that out loud to you. This one      21 says: "At no time in 2009, nor before or      22 thereafter, did I meet with either Victor or      23 William Spina regarding establishing an      24 account with DIRECTV to display or exhibit      25 DIRECTV satellite programming in the</p>	<p>1 address that we're talking about at times      2 here.</p> <p>3 Q. Okay.</p> <p>4 A. He has a separate office on the backside of      5 that building.</p> <p>6 Q. Okay. But do you remember if you met with      7 them about DIRECTV at that time? Or was --      8 did you do the DIRECTV discussion on the      9 phone, or what?</p> <p>10 MR. HUFNAGEL: Paul, one question      11 at a time, please. I'm going to object.      12 It's compound.</p> <p>13 BY MR. OVERHAUSER:</p> <p>14 Q. Okay. Let me just -- did you ever talk      15 about -- you mentioned before that you knew      16 that they were looking to get DIRECTV for the      17 Martinsville restaurant, right?</p> <p>18 A. Right.</p> <p>19 Q. So did you find that out through --</p> <p>20 A. Or some sort of programming. I mean, yeah.      21 They were looking to get something. So at      22 that time, yes, I guess we did probably have      23 that conversation.</p> <p>24 Q. But it might have been on the phone?</p> <p>25 A. It could have been. You know, you're asking</p>
Page 34	Page 36
<p>1 commercial establishment known as      2 Martinsville Texas Corral, located at 610      3 Birk Road, Martinsville, Indiana 46151."</p> <p>4 A. Okay.</p> <p>5 Q. Now, do you think there's any part of this      6 that might be a little misleading?</p> <p>7 A. Yeah.</p> <p>8 Q. How so?</p> <p>9 A. Well, it says that I did not meet. And I      10 actually was doing business with them at that      11 time. And we did talk about it, but I didn't      12 initially install them. That was where my      13 contractor, the Mark Lavance guy, jumped in      14 there and basically took it upon himself to      15 do that stuff without my knowledge. And I      16 thought that they were just adding receivers      17 to the home account. But, you know,      18 apparently they weren't. So...</p> <p>19 Q. But when you did business with the Spinas,      20 would you go out and meet with them usually,      21 or would you do it on the phone, or --</p> <p>22 A. Sometimes it was on the phone. Did meet with      23 Bill at his office there in Martinsville a      24 couple times, which is a separate little      25 building that's attached to the 610 Birk</p>	<p>1 me something that happened six years ago      2 almost now.</p> <p>3 Q. Okay. Well, I see that Paragraph 5 also      4 talks about a commercial establishment. Now,      5 when you had some kind of conversation with      6 the Spinas, had the restaurant opened yet?</p> <p>7 A. There was no business there at that time,      8 that is correct.</p> <p>9 Q. Okay. So the restaurant was not --</p> <p>10 A. No.</p> <p>11 Q. -- at that time a commercial establishment?</p> <p>12 A. No, it was not.</p> <p>13 Q. But when you had the conversation, it was      14 your understanding that in the future it      15 would become a commercial establishment,      16 right?</p> <p>17 A. (No response.)</p> <p>18 Q. Let me just rephrase the question.</p> <p>19 A. Yeah.</p> <p>20 Q. There had been some discussions about them      21 getting --</p> <p>22 A. Yeah, yeah.</p> <p>23 Q. -- DIRECTV or something?</p> <p>24 A. They were looking at it, yeah. And basically      25 I think at that time I told them that</p>

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<p>1    commercial and residential were different at      2    that time.</p> <p>3 Q. Okay. Let me read Paragraph 6 out loud.      4    Well, let me just go back to the -- you said      5    you were familiar with the building at 610      6    Birk Road in Martinsville?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Is it pretty obvious from that building that      9    it's a restaurant building and not --</p> <p>10 A. Well, it is right now, yes, sir.</p> <p>11 Q. But is it obvious that it's not a residence?</p> <p>12 A. Oh, yeah. Without a doubt.</p> <p>13 Q. Okay.</p> <p>14 A. Yes.</p> <p>15 Q. All right. Let me go back to -- let me read      16 Paragraph 6 out loud. It says: "At no time      17 in 2009, nor before or thereafter, did I      18 visit or inspect the commercial location of      19 610 Birk Road, Martinsville, to establish a      20 quote for DIRECTV satellite services to be      21 used at said location."</p> <p>22 A. Right.</p> <p>23 Q. Okay. And, you know, as I read that, it      24 makes it sound like you didn't have anything      25 to do with getting DIRECTV installed there.</p>	<p>1    usually. I mean, between friends, yeah.</p> <p>2 Q. Okay. Let me read Paragraph 7 out loud. It      3    says: "At no time, in 2009 or ever, did I      4    personally install, nor did I authorize any      5    employee of SAS Digital to install DIRECTV      6    receivers or satellite dishes at the      7    commercial establishment known as      8    Martinsville Texas Corral located at 610 Birk      9    Road, Martinsville, Indiana 46151."</p> <p>10      Now, this says that you did not      11 personally install --</p> <p>12 A. Right.</p> <p>13 Q. -- anything there, right?</p> <p>14 A. Right. That is correct.</p> <p>15 Q. And you didn't have an employee install it --</p> <p>16 A. No, it would have been a subcontractor. I      17 had no employees.</p> <p>18 Q. Okay. So a subcontractor did the      19 installation, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And just again, this Paragraph 7 also      22 uses the term commercial establishment, but      23 at the time it had not yet opened for      24 business, right?</p> <p>25 A. No.</p>
Page 38	Page 40
<p>1    But in 2009, it was your corporation that was      2    doing the business, not you personally,      3    right?</p> <p>4 A. That is right, yeah.</p> <p>5 Q. And again this Paragraph 6 talks about there      6    being a commercial location at that address,      7    correct?</p> <p>8 A. Uh-huh.</p> <p>9 Q. But at the time it was not yet a commercial      10 location because the restaurant hadn't      11 opened?</p> <p>12 A. That's right.</p> <p>13 Q. And this also talked about establishing a      14 quote. Do you always provide quotes before      15 you do any work?</p> <p>16 A. Usually, yes.</p> <p>17 Q. Okay.</p> <p>18 A. People like to know what they're going to be      19 paying for something before they get it.</p> <p>20 Q. But do you know if you provided a written      21 quote for the Spinas?</p> <p>22 A. Um...</p> <p>23 Q. Or did you just trust each other because --</p> <p>24 A. Yeah, I mean, that's pretty much just the      25 friendship thing, what you say is what goes,</p>	<p>1    Q. Okay. Let me read Paragraph 8 to you. It      2    says: "At no time in 2009, and at no time      3    prior or thereafter, did I represent to      4    Victor or William Spina that a residential      5    account was appropriate and suitable for use      6    inside a restaurant/commercial establishment.      7    The Spinas were never authorized by myself      8    nor SAS Digital to use residential services      9    and accounts for the public display of      10     DIRECTV satellite programming in commercial      11     locations."</p> <p>12 A. Right.</p> <p>13 Q. This kind of sounds to me as though you told      14     Victor or Bill that they were getting a      15     residential account in the first place. Is      16     that what you told them?</p> <p>17      MR. HUFNAGEL: I'm going object to      18     that question. You're leading here, Paul.</p> <p>19 A. Well, basically, as far as I knew that's what      20     they were getting, was residential accounts.      21     I was not aware that they were being      22     installed by my contractor in their location      23     at 610 Birk Drive.</p> <p>24 Q. Okay. But just to be clear, SAS did provide      25     the DIRECTV equipment to the commercial</p>

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<p>1 location? 2 A. Yeah, we did. We sure did. 3 Q. Okay. 4 A. Yep. No denying that. 5 Q. And this also says the Spinas were never 6 authorized by myself or SAS Digital. That 7 kind of implies that, you know, to get the 8 programming, that you authorize them. But 9 who does the real authorization? Is it 10 you -- 11 A. DIRECTV does the real authorization. 12 Q. Okay. So if this paragraph implied that you 13 were able to authorize it -- 14 A. No. 15 Q. -- it's a little bit misleading? 16 A. Right. 17 Q. Okay. Tell me, how does the authorization 18 work? 19 A. Well, it can work several different ways. 20 You can build an account on a computer and 21 you can go through an automated system at the 22 end of installation where you don't even talk 23 to a representative at the time of 24 activation. 25 Or sometimes you actually do talk to</p>	<p>1 And again, this paragraph talks about 2 a meeting with the Spinas? 3 A. No. 4 Q. Okay. But did you do business with the 5 Spinas on the phone? 6 A. Yeah. I mean, normally when Bill wanted 7 something, he would call me up and say I need 8 a video surveillance system, hey, I want -- 9 you know, I think possibly at that point 10 there, he may have asked me to install a 11 satellite dish at the -- up on top of his 12 dish -- or up on top of his roof because they 13 were looking to get DIRECTV service. So I 14 didn't realize that my contractor was the one 15 that was going out and installing this -- 16 these receivers under my dealer number for 17 them. 18 Q. Uh-huh. 19 A. Yeah. 20 Q. And is this stuff you explained to -- 21 A. I tried to explain to the best of my ability. 22 Yeah, I mean, again, you're asking me a lot 23 of stuff about things that happened a long 24 time ago. But I explained to Chris and Julie 25 and the people at DIRECTV, yeah.</p>
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<p>1 a person that asks you questions about where 2 it's installed and how it was installed and 3 is everything working. And they send out an 4 authorization hit to the receivers and it's 5 activated. 6 Q. Okay. But does DIRECTV have to do something 7 to cause the receivers to be activated? 8 A. They have to marry the RID number and the 9 access card number to the receiver in order 10 for it to be activated. 11 Q. Okay. Just for the benefit of our court 12 reporter, you said a RID number? 13 A. Yeah, it's a Receiver Identification Number. 14 Q. Like R-I-D? 15 A. R-I-D. 16 Q. Okay. All right. Let me read Paragraph 9 of 17 that affidavit. It says: "At no time in 18 2011, neither before nor thereafter, did I 19 meet with either Victor or William Spina 20 regarding establishing an account with 21 DIRECTV to display DIRECTV satellite 22 programming in the commercial establishment 23 known as Shelbyville Texas Corral, located at 24 2103 Intelliplex Drive, Shelbyville, Indiana 25 46176."</p>	<p>1 Q. Okay. And at the time you did the 2 installation at Shelbyville, was it at that 3 point a commercial establishment, or did -- 4 A. No. There was -- I had never been in that 5 restaurant when it was up and running. Any 6 work I did there was before it ever opened. 7 MR. HUFNAGEL: Paul, I was going 8 to ask you to clarify. When you say 9 installation, what are you referring to and 10 when in time period? 11 MR. OVERHAUSER: I'm sorry. I was 12 talking about the installation at the 13 Shelbyville restaurant in 2011. 14 MR. HUFNAGEL: The installation of 15 what? 16 MR. OVERHAUSER: The DIRECTV 17 system. 18 MR. HUFNAGEL: Okay. 19 BY MR. OVERHAUSER: 20 Q. So just to confirm, Mr. Spencer, you 21 installed some DIRECTV equipment at the 22 Shelbyville -- 23 A. I believe, if I remember right, when I went 24 and put up their video surveillance system, I 25 did put a dish on the top of their building</p>

<p>1 for them. But as far as activating their      2 receivers, I told them that, you know, they      3 were going to have to find somebody else to      4 do that. And little did I know that it was      5 this guy that was working for me that was      6 going to go in there and hook up receivers      7 that were listed as a residential account,      8 you know.</p> <p>9 I didn't know that until after the      10 fact, until Bill Spina actually called me --      11 or I called him after DIRECTV called me, and      12 said what happened, what's going on? And he      13 goes, well, your guy, when he hooked up my      14 receivers at Shelbyville and Martinsville,      15 told me that we could add these to my home      16 account, and, you know, didn't realize that      17 he was doing something wrong in activating      18 that equipment for him.</p> <p>19 You know, he activated those      20 receivers under my dealer number and my      21 equipment that I had got from DSI. You know,      22 he's a subcontractor. He gets paid on      23 commission. And, you know, for him to go out      24 and add a receiver here or there, you know,      25 he got paid money to do that, by me. But I</p>	<p>1 SAS Digital to install DIRECTV receivers or      2 satellite dish at the commercial location      3 known as Shelbyville Texas Corral, located at      4 2103 Intelliplex Drive, Shelbyville, Indiana      5 46176."</p> <p>6 A. Well, the receiver is part of it, yeah. But      7 the dish, you know, I just said I did do a      8 dish for them. But that was just for the      9 simple fact that I thought they were going to      10 pursue the commercial side of it and that way      11 they were ready to go. But as far as me      12 having an employee or myself, no, did not.</p> <p>13 Q. But you now know that it was your contractor      14 that installed the DIRECTV receivers?</p> <p>15 A. Yes.</p> <p>16 Q. And caused DIRECTV to activate those      17 receivers?</p> <p>18 A. Yeah. After I talked to Bill, we put it all      19 together what was going down. So...</p> <p>20 Q. And again, when that happened, the restaurant      21 had not yet opened, correct?</p> <p>22 A. No, it had not. No.</p> <p>23 Q. Okay. Let me read Paragraph 13 out loud. It      24 says: "The first time I heard about the      25 claims of DIRECTV, LLC against the commercial</p>
<p>1 didn't realize that they were going in --</p> <p>2 Q. Well, do you know whether the accounts at the      3 restaurant were set up under -- was the      4 account originally created, you know, at      5 about the time of the installation --</p> <p>6 A. I would say so. Somewhere -- you know,      7 somewhere in that same time frame.</p> <p>8 Q. Okay.</p> <p>9 A. That's possible, yeah.</p> <p>10 Q. Okay. So in Paragraph 10, it says you didn't      11 inspect the location to provide a quote for      12 DIRECTV satellite services, but you did go      13 out there and put in a DIRECTV --</p> <p>14 A. Right, I did --</p> <p>15 Q. -- antenna.</p> <p>16 A. That is correct.</p> <p>17 Q. Okay. And you got it wired -- as a part of      18 the --</p> <p>19 A. I wired it all up, yeah, along with the video      20 surveillance system. Right.</p> <p>21 Q. Okay.</p> <p>22 A. Yep. I did.</p> <p>23 Q. Okay. Paragraph 11, I'll read that. "At no      24 time, in 2011 or ever, did I personally      25 install, nor did I authorize any employee of</p>	<p>1 Page 46</p> <p>1 establishments known as Martinsville Texas      2 Corral and Shelbyville Texas Corral was in      3 September 2014 when I was contacted by      4 William Spina via phone."</p> <p>5 "I have known the Spina family since      6 high school and therefore was not surprised      7 to receive a call from William until I heard      8 what William was alleging. During that phone      9 call, William Spina stated to me that he was      10 aware that a technician had installed      11 satellite dishes and receivers at the two      12 business locations, and that he had paid the      13 installer to do that work. The phone call      14 was the first time I had any knowledge of any      15 receivers being installed" --</p> <p>16 A. There you go.</p> <p>17 Q. -- "in either business locations, or being      18 utilized by either business locations owned      19 by the Spinas."</p> <p>20 A. That is correct.</p> <p>21 Q. Okay. Now, let me just clarify one thing      22 here. This mentions that the call occurred      23 in -- I think it says September 2014. Do you      24 believe that's accurate, 2014?</p> <p>25 A. Again, it could be. It could have been a</p>

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<p>1 month or two or three off, I reckon. 2 Q. Well, when you had the conversation with 3 William Spina, was it after you had had 4 the -- after you had been contacted by 5 DIRECTV? 6 A. Actually, yeah, it was. Because I didn't 7 have any knowledge about it until -- wait a 8 minute. Let me think about this. Actually, 9 I didn't have any knowledge about it -- all 10 this going down until after DIRECTV called me 11 and told me that they were naming -- you 12 know, that the Spinas were naming me in a 13 lawsuit. 14 Q. So that was in April of 2015? 15 A. I believe so, yeah. 16 Q. So it was just a mistake that -- the 17 affidavit that Chris Hufnagel put together 18 has September 2014, that was just a mistake? 19 A. Yeah, that, or I -- maybe just everything 20 going on, I possibly stated the dates wrong 21 or something. But yeah, I don't think I 22 originally knew about it until I was 23 contacted by Jose, to get ahold of them, that 24 they had questions about the Spinas' account. 25 Q. And that was in April?</p>	<p>1 A. I'm going to have to say, yeah, I believe it 2 was. 3 Q. Okay. And the reason you texted Bill, it 4 says -- well, the text message says: 5 "DIRECTV tells me you're naming me in a 6 lawsuit. What's up? Can you fill me in?" 7 A. Yes. 8 Q. And you thought that because DIRECTV had told 9 you -- 10 A. That is correct. 11 Q. -- that Bill -- 12 A. Sure did. 13 Q. Let me finish my question. 14 A. Oh, I'm sorry. I apologize. I'm just 15 reading you. 16 Q. But you sent that because DIRECTV had told 17 you that you had been sued by Bill and Victor 18 Spina? 19 A. Yes. 20 Q. And now you know neither of them have sued 21 you, correct? 22 A. That is correct. 23 Q. And you've later learned that it was DIRECTV 24 that's filed a lawsuit, not Bill Spina, 25 right?</p>
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<p>1 A. I believe that was in April. End of March, 2 first of April sometime. 3 Q. Of 2015? 4 A. Yes. Just six months ago or whatever. 5 (Whereupon, Exhibit No. 7 was 6 marked for identification.) 7 BY MR. OVERHAUSER: 8 Q. And let me ask you to take a look at 9 Exhibit 7. These appear to be text messages 10 between Bill and Spencer. Do you see that? 11 A. Yep. 12 Q. And it says -- they have a date on them of 13 April 7th, 6:04 p.m.? 14 A. Uh-huh. 15 Q. So are these the text messages that you sent 16 to Bill Spina? 17 A. After DIRECTV contacted me, that's right. 18 Looks like it was the first of April. 19 April 7th. Yeah. 20 Q. And you sent that right after you had been 21 contacted by DIRECTV about this lawsuit? 22 A. Yes, sir, I sure did. I wanted to know what 23 was going down. 24 Q. Okay. So you're pretty sure that the 25 September 2014 was just a mistake?</p>	<p>1 A. Against the Spinas, yes. 2 Q. Okay. Let's go back to this Paragraph 13 3 real quick. Let me see where it is. It has 4 a sentence that says: "This phone call was 5 the first time I had any knowledge of any 6 receivers being installed at either of the 7 business locations or being utilized at 8 either of the business locations owned by the 9 Spinas." Do you see that? 10 A. Uh-huh. 11 Q. Now, at the time you installed the DIRECTV 12 satellite in Shelbyville, it wasn't a 13 business location yet, correct, because it 14 hadn't opened? 15 A. No. There was no business there, operating 16 business, at the time of any of the work that 17 I did there. 18 Q. So technically, this sentence was accurate, 19 because it wasn't a business location? 20 A. No, it was not. 21 Q. Okay. And who actually drafted this 22 sentence? Who actually drafted section 13? 23 Is that something you wrote or did DIRECTV's 24 attorney do it? 25 A. I believe that DIRECTV took some information</p>

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<p>1    that I gave them. And I'm trying to figure      2    out the September 14th part -- or the      3    September 2014. Because actually the first      4    time I had talked to Bill about any of this      5    was back in April.</p> <p>6    Q. Okay. You mentioned earlier that when you      7    first got the declaration shown in Exhibit 6,      8    that you didn't sign it because you thought      9    it was misleading?</p> <p>10 A. Right.</p> <p>11 Q. Why did you go ahead and sign it?</p> <p>12 A. Because of the phone call that I received      13 from somebody at DIRECTV stating that they      14 were vice president of operations or      15 whatever. And that's where I called Jose and      16 told him to tell that man that I would get      17 that stuff sent to Chris right away.</p> <p>18 Q. Well, was he making some kind of implied      19 threat?</p> <p>20 A. Just the fact that the Spinas were filing --      21 that they were filing a lawsuit against me,      22 and it was probably in my best interest to      23 get that affidavit signed and back to Chris.</p> <p>24 Q. So they made you think that if you signed the      25 declaration, that the lawsuit the Spinas had</p>	<p>1    relationship with DIRECTV.</p> <p>2    Q. Okay. Let me read Paragraph 14. This one      3    says: "I did not perform any installations      4    at 610 Birk Road, Martinsville, Indiana      5    46151, or at 2103 Intelliplex Drive,      6    Shelbyville, Indiana 46176, nor did I      7    authorize or direct my employees to install      8    receivers for DIRECTV satellite programming      9    at the commercial locations known as      10 Martinsville Texas Corral and/or Shelbyville      11 Texas Corral."</p> <p>12 Now, it says that, and again, it uses      13 this term, commercial establishments. But at      14 the time all this was going down for each      15 location --</p> <p>16 A. Neither one of them had opened for business      17 at that point, no. That's right.</p> <p>18 Q. Okay. And the person that installed and      19 activated the receivers -- well, I guess      20 DIRECTV activated them -- but the person that      21 installed the receivers was your contractor      22 and not you personally?</p> <p>23 A. That is correct.</p> <p>24 Q. And did you ever discuss your concerns with      25 Chris Hufnagel about, you know, the</p>
<p>1    filed against you would go away?</p> <p>2 A. They didn't really say that, but it was kind      3    of -- I felt like it was implied that way by      4    the gentleman that left the message, yes.</p> <p>5 Q. And that would have been the vice president      6    of operations for DIRECTV?</p> <p>7 A. And again, I'm not sure that that was the      8    vice president of operations. But they made      9    it sound like that was somebody really      10 important at DIRECTV.</p> <p>11 MR. HUFNAGEL: Paul, I'm going to      12 object again to this line of questioning.      13 You're -- this is not reasonably calculated      14 to lead to the discovery of admissible      15 evidence, and it's calling for hearsay. I      16 want to state that on the record.</p> <p>17 MR. OVERHAUSER: Okay.</p> <p>18 BY MR. OVERHAUSER:</p> <p>19 Q. Was there any suggestion that if you didn't      20 sign it, DIRECTV may take away your      21 residuals? Or were you concerned about that?</p> <p>22 A. Yeah, I was concerned about it, sure.</p> <p>23 Q. And you didn't want them -- you didn't want      24 to lose --</p> <p>25 A. No, I still want to maintain an active</p>	<p>1    potentially misleading parts of this      2    declaration?</p> <p>3 A. I think I did talk to Chris about it, and he      4    told me that it just wasn't really anything      5    to worry about and that it was truthful and      6    not misleading and go ahead and sign it.</p> <p>7 Q. He told you it was truthful?</p> <p>8 A. Man, I can't say what his exact words were,      9    but, I mean, I felt like, you know, I needed      10 to sign it and get it back to them.</p> <p>11 Q. Okay. And you wanted to make sure you didn't      12 lose your residuals?</p> <p>13 A. Yeah.</p> <p>14 Q. Now, you've since learned that DIRECTV      15 disconnected its service to the Texas Corral      16 restaurants and sued the Spinas for over      17 \$100,000, right?</p> <p>18 A. Yeah. That's a lot of money.</p> <p>19 Q. Do you think that DIRECTV had the right to      20 disconnect the service?</p> <p>21 A. Oh, I suppose they had the right --</p> <p>22 MR. HUFNAGEL: I'm going to object      23 to that question. Paul, you're calling for      24 speculation here. If you're going to      25 continue with this line of questioning, I</p>

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<p>1 think we need to get the judge on the phone.      2 MR. OVERHAUSER: Okay.      3 BY MR. OVERHAUSER:      4 Q. I mean, does it appear to you that DIRECTV      5 made a mistake when it initially opened the      6 accounts?      7 MR. HUFNAGEL: Objection. You're      8 calling for speculation.      9 A. I'd say somebody made a mistake.      10 Q. And do you know who made the mistake?      11 A. I would say that my contractor made a mistake      12 explaining to the Spinas that it was not a      13 big deal to do that.      14 Q. Okay. But it's DIRECTV's systems that record      15 whether an account is residential or      16 commercial, right? DIRECTV keeps track of      17 it, right?      18 A. Yeah, yeah. Sure.      19 Q. Well, given your 20 years of experience as a      20 DIRECTV representative, would there have been      21 any way for the Spinas to know that DIRECTV      22 had made a mistake?      23 A. No, not unless somebody brought it to their      24 attention.      25 Q. Do DIRECTV customers have access to DIRECTV's</p>	<p>1 wrong?      2 A. Did I tell DIRECTV that if they had a      3 residential account their records were wrong?      4 No, I don't believe so.      5 Q. Okay. Did you ever tell DIRECTV that you      6 witnessed the Spinas moving DIRECTV equipment      7 from a residence to a business?      8 A. No. I would have never -- like I said, I've      9 known Bill and Vic, and they wouldn't do      10 anything to do that. No. I don't believe      11 that. I don't believe that they did --      12 intentionally thought that they were going to      13 gain anything by doing anything wrong against      14 DIRECTV.      15 Q. When you spoke to DIRECTV and Chris Hufnagel      16 and Julie Lonstein during this call in April      17 of 2015, did you tell them during that call      18 that you had supplied the DIRECTV equipment      19 at the Texas Corral Restaurants?      20 A. Well, yeah, I mean, apparently I did, because      21 that's how they got ahold of me is my dealer      22 number is attached to those receivers. So,      23 yes, the answer would be yes.      24 Q. And you discussed that with them in April of      25 2015?</p>
Page 58	Page 60
<p>1 internal database?      2 A. No.      3 Q. Let me read you a paragraph from the      4 complaint that DIRECTV filed in this case.      5 It says: "Because equipment used with      6 DIRECTV services can be moved from      7 residential locations to commercial      8 establishments without DIRECTV's knowledge,      9 owners of commercial establishments wishing      10 to use DIRECTV's programming for their own      11 commercial gain at the lower residential      12 rates can surreptitiously gain access to      13 DIRECTV's programming without proper      14 authorization by subscribing to DIRECTV's      15 services under a residential account and then      16 installing/moving the equipment to their      17 businesses and utilizing those services in a      18 commercial environment."      19 Now, when you spoke to DIRECTV and      20 its attorneys in April of 2015, did you tell      21 them that the Spinas had never signed up for      22 a residential account?      23 A. No.      24 Q. Did you tell them that if their records had a      25 residential account that their records were</p>	<p>1 A. I believe so.      2 Q. Okay. Just to be clear, when the contractor      3 installed the systems at the two Texas Corral      4 restaurants in 2009 and 2011, you were an      5 authorized DIRECTV retailer at the time,      6 weren't you?      7 A. Yes, I was, and I still am.      8 Q. And when DIRECTV activated and authorized      9 those DIRECTV receivers at the two Texas      10 Corral restaurants, you were still an      11 authorized DIRECTV retailer at the time?      12 A. Yes.      13 Q. And you're still an authorized DIRECTV      14 retailer today?      15 A. Yes, I am.      16 Q. Okay. Let me ask you a couple questions just      17 about how the DIRECTV system works.      18 A. Uh-huh.      19 Q. You need a DIRECTV antenna to receive DIRECTV      20 programming, right?      21 A. That is correct.      22 Q. And when a DIRECTV subscriber signs up for      23 service, they get a DIRECTV receiver,      24 correct?      25 A. That is correct.</p>

Page 61	Page 63
<p>1 Q. Okay. Now, who actually owns the receiver      2 after it is delivered, DIRECTV or the      3 subscriber?</p> <p>4 A. <b>DIRECTV keeps ownership of all of their</b>      5 <b>equipment.</b></p> <p>6 Q. It doesn't get sold to the customer?</p> <p>7 A. <b>No.</b></p> <p>8 Q. Okay. When a DIRECTV subscription ends, what      9 happens to the DIRECTV receiver?</p> <p>10 A. <b>Sometimes they have the customer send the</b>      11 <b>equipment back, and sometimes they tell the</b>      12 <b>customer they can do with it what they want.</b></p> <p>13 <b>It just depends on the -- if that receiver is</b>      14 <b>compatible with their format they're using</b>      15 <b>today versus five years ago.</b></p> <p>16 Q. Okay. Are DIRECTV signals encrypted before      17 they are transmitted from a ground-based      18 satellite?</p> <p>19 A. <b>Yes.</b></p> <p>20 Q. And do those signals stay encrypted until      21 they are decrypted by a DIRECTV-owned      22 receiver that DIRECTV has activated?</p> <p>23 A. <b>Yes.</b></p> <p>24 Q. Are persons that view decrypted DIRECTV      25 programming from a receiver that has been</p>	<p>1 Q. And what can they do with that?</p> <p>2 A. <b>They can deactivate it whenever they feel the</b>      3 <b>need to deactivate it. If the customer</b>      4 <b>doesn't pay their bill, or if they find out</b>      5 <b>they're doing something wrong, I suppose they</b>      6 <b>can deactivate it at any time they want.</b></p> <p>7 Q. Okay. Now, let's talk more about the TV      8 signals that come out of these systems.</p> <p>9 A. <b>Uh-huh.</b></p> <p>10 Q. Is the TV signal that is output from an      11 activated DIRECTV receiver encrypted or      12 decrypted?</p> <p>13 A. <b>Oh, it's decrypted when it comes out of the</b>      14 <b>receiver.</b></p> <p>15 Q. Okay. And can the TV signal that is output      16 from an activated DIRECTV receiver be input      17 into any conventional television for display?</p> <p>18 A. <b>Yes.</b></p> <p>19 Q. So let me just make sure I got this right.      20 The DIRECTV signal is encrypted from the time      21 it is beamed up to the satellite and sent      22 down to the subscriber's antenna and then      23 into the DIRECTV receiver?</p> <p>24 A. <b>Yes.</b></p> <p>25 Q. And DIRECTV owns all of that equipment?</p>
Page 62	Page 64
<p>1 activated by DIRECTV authorized by DIRECTV to      2 view the programming --</p> <p>3 <b>MR. HUFNAGEL:</b> I'm going to object      4 to that question, Paul. You're calling for      5 legal conclusions here.</p> <p>6 <b>MR. OVERHAUSER:</b> Let me repeat it      7 again, just because there was some overtalk      8 due to the phone system here. And I      9 understand. We'll -- you can maintain your      10 objection.</p> <p>11 <b>BY MR. OVERHAUSER:</b></p> <p>12 Q. Are persons that view decrypted DIRECTV      13 programming from a receiver that has been      14 activated by DIRECTV, authorized by DIRECTV      15 to view the programming?</p> <p>16 A. <b>Yeah, sure.</b></p> <p>17 <b>MR. HUFNAGEL:</b> I'm going to object      18 again, you know, as to form.</p> <p>19 <b>BY MR. OVERHAUSER:</b></p> <p>20 Q. Does DIRECTV continuously maintain control      21 over DIRECTV receivers?</p> <p>22 A. <b>Yes.</b></p> <p>23 Q. How do they do that?</p> <p>24 A. <b>Through the RID number, the Receiver</b>      25 <b>Identification Number, and the access card.</b></p>	<p>1 A. <b>Yes.</b></p> <p>2 Q. And the DIRECTV signal is not decrypted until      3 it comes out of the DIRECTV receiver, which      4 DIRECTV itself owns and activates?</p> <p>5 A. <b>Yeah. Yes.</b></p> <p>6 Q. Okay. And the decrypted signal comes out of      7 a cable that's plugged into the back of the      8 DIRECTV receiver?</p> <p>9 A. <b>Right.</b></p> <p>10 Q. And persons that watch DIRECTV programming      11 through a DIRECTV receiver that has been      12 activated by DIRECTV are authorized by      13 DIRECTV to watch?</p> <p>14 <b>MR. HUFNAGEL:</b> Objection. Form.</p> <p>15 A. <b>Yeah.</b></p> <p>16 <b>MR. OVERHAUSER:</b> No further      17 questions.</p> <p>18 <b>MR. HUFNAGEL:</b> Mr. Spencer, I just      19 have a few questions for you today.</p> <p>20 <b>THE WITNESS:</b> Yeah, go ahead.</p> <p>21 <b>MR. OVERHAUSER:</b> Hang on just one      22 second. I need to make an objection to any      23 interrogation by Mr. Hufnagel. I mean, if      24 Julie is there, I have no problem with her      25 asking questions because she has appeared in</p>

1      this case. 2      Mr. Hufnagel, as I understand it, you 3      have not appeared. Is that correct? 4            MR. HUFNAGEL: That's correct. 5            MR. OVERHAUSER: Okay. So in this 6      case you do not represent DIRECTV before the 7      court, and consequently you are not 8      authorized to interrogate this witness. So I 9      object to any questions that you may ask. 10        MR. HUFNAGEL: Objection noted.  11     CROSS-EXAMINATION, 12        QUESTIONS BY MR. HUFNAGEL: 13     Q. Mr. Spencer, as you sit here today, are you 14      represented by an attorney? 15     A. No, I'm not. 16     Q. Did you meet with an attorney prior to today 17      to prepare for today's deposition? 18     A. No, I have not. 19     Q. Are you represented by Paul Overhauser? 20     A. No, I'm not. 21     Q. Did you meet with Paul Overhauser prior to 22      today's deposition? 23     A. No, I did not. 24     Q. Did you exchange any e-mails with Paul 25      Overhauser prior to today?	Page 65  1      when you said airbill, correct? 2     A. I guess so. 3     Q. Well, the document is entitled subpoena? 4     A. Yeah, it says subpoena to testify for 5      deposition in a civil action. And it's got 6      my name underneath it, right. 7     Q. Okay. That's what I wanted to establish. 8     Did you have any phone calls with Paul 9      Overhauser prior to today? 10    A. Just about he needed to do this thing that 11      we're doing now, and he was -- you know, 12      wanting to get with me or wanted to know if I 13      was going to be in Indiana anytime soon. And 14      this was about a month or so ago. And I said 15      I'll be up in Indiana, and we went ahead and 16      scheduled it for Friday at 10:00 and we had 17      to change it to 2:00. So other than that, 18      no. I've had no conversations with him or 19      the Spinas. 20    Q. So in that conversation, you just mentioned 21      that Paul Overhauser said you needed to do 22      this, is that correct? 23    A. Well... 24    Q. Isn't that what you just stated? 25    A. Yeah, I did state that.
Page 66  1     A. The only thing I got from Paul was this -- 2      this is what you sent about what... 3            MR. OVERHAUSER: Yeah, about 4      scheduling. 5            THE WITNESS: Just something from 6      the United States court thing here. That's 7      all I've got from him. 8            BY MR. HUFNAGEL: 9     Q. And what did it state, that document? Was it 10      a subpoena or what did it state on it? 11    A. It's United States District Court for the 12      Southern District of Indiana. DIRECTV 13      plaintiff versus Victor Spina. And it's just 14      got a thing with my address on it. And he 15      sent it to me airbill asking me to come here 16      at 10:00 this morning, which I could not do. 17      We scheduled it for 2:00 on the phone 18      yesterday when I called him at the last 19      minute and told him I couldn't be here at 20      10:00. And it says, enclosed is your 21      subpoena to testify. You are -- if you have 22      any e-mails or correspondence with DIRECTV or 23      Lonstein please bring them, which I didn't 24      have anything. So, no. 25    Q. So it was a subpoena you were served with	Page 66  1     Q. Did he say why you needed to do it? 2     A. No, not necessarily. Just said that he 3      needed my attention on this matter. 4     Q. So he didn't -- did he threaten you in any 5      way? 6     A. No, no, not at all. 7     Q. Did he promise you anything? 8     A. No. Nothing. Why, can I get something? I'm 9      just -- I'm sorry. I'm just being funny. 10    Q. Did he compensate you in any way for your 11      attendance here today? 12    A. No, no. Actually, I left Martinsville this 13      morning, and I'm on my way to Ft. Wayne, and 14      Greenfield was on the way. So here I am. 15    Q. Okay. And have you reviewed any documents 16      prior to today's deposition to prepare? 17    A. No. No, huh-uh. 18    Q. And would you like to have a chance to review 19      the transcript that the court reporter is 20      taking today to possibly change any of your 21      answers prior to you signing that transcript? 22    A. No, I don't think so. 23            MR. HUFNAGEL: Thank you very 24      much. That's all the questions I have. 25            MR. OVERHAUSER: Thank you.

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1 (Deposition proceedings conclude  
2 at 3:30 p.m.)  
3

4 AND FURTHER THE DEONENT SAITH NOT.  
5

6 (Signature waived.)  
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1 STATE OF INDIANA      }      SS:  
2 COUNTY OF SHELBY      }

3 CERTIFICATE OF COURT REPORTER

4 I, Joyce E. Shinault, the undersigned  
5 Court Reporter and Notary Public, residing in the  
County of Shelby, State of Indiana, do hereby  
certify:

6 That at the time and place described in  
7 this transcript, the deponent, CRAIG SPENCER,  
presented himself before me for administration of  
8 an oath of truthfulness, which oath I then  
administered;

9 That I then reported to the best of my  
10 ability in machine shorthand all of the words  
spoken by all parties in attendance during the  
11 course of the ensuing proceedings, including  
objections, if any, made by all counsel present;

12 That I later reduced my stenographic notes  
13 into the foregoing typewritten transcript form,  
which typewritten transcript is a true record of  
14 the testimony given by this witness as stated  
above;

15 I do further certify that I am a  
16 disinterested person in this cause of action;  
that I am not a relative or attorney or employee  
17 of any of the parties; that I am not a relative  
of an employee of such attorney or counsel; and  
18 that I am not financially interested in this  
action.

19 IN WITNESS HERETO, I have affixed my  
20 Notarial Seal and subscribed my signature below  
this \_\_\_\_\_ day of September, 2015.

22 Joyce E. Shinault, RPR, Notary Public

23 My Commission Expires:  
September 8, 2023  
24 County of Residence:  
Shelby  
25